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Paper No. 6

In re Application of
Robert D. Fogal, Sr.
Application No. 09/873,872
Filed: June 4, 2001
Attorney Docket No. 5838-YY-1-CON

: DECISION ON PETITION

This is a decision on the petition filed on August 26, 2002 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a reply to the Office letter dated January 2, 2002. No fee is required for the petition.

The petition is granted.

Petitioner alleges that this application is not in fact abandoned because a reply to the Office letter was in fact filed on May 13, 2002 and that the reply was timely by reason of a concurrently filed petition for a one month extension of time together with the fee therefor. This allegation is supported by copies of the papers and by a copy of a filing receipt for the papers dated May 13, 2002. The papers were accompanied by a 37 CFR 1.8(a) certificate of mailing dated May 2, 2002. In addition, Office financial records show that the fee for the extension was in fact received and applied.

It is clear from the above showing that this application was not abandoned. See, in particular, 37 CFR 1.8(b). Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the examiner for action on the reply filed on May 13, 2002, certificate of mailing date May 2, 2002.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Attachment

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ATTACHMENT

The petition and attached papers filed on August 26, 2002 have not been made part of the permanent records of the United States Patent and Trademark Office (Office) for this application (37 CFR 1.52(a)) because of damage from the United States Postal Service irradiation process. The above-identified papers, however, were not so damaged as to preclude the USPTO from making a legible copy of such papers. Therefore, the Office has made a copy of these papers, substituted them for the originals in the file, and stamped that copy:

COPY OF PAPERS
ORIGINALLY FILED

If applicant wants to review the accuracy of the Office's copy of such papers, applicant may either inspect the application (37 CFR 1.14(d)) or may request a copy of the Office's records of such papers (*i.e.*, a copy of the copy made by the Office) from the Office of Public Records for the fee specified in 37 CFR 1.19(b)(4). Please do **not** call the Technology Center's Customer Service Center to inquiry about the completeness or accuracy of Office's copy of the above-identified papers, as the Technology Center's Customer Service Center will **not** be able to provide this service.

If applicant does not consider the Office's copy of such papers to be accurate, applicant must provide a copy of the above-identified papers (except for any U.S. or foreign patent documents submitted with the above-identified papers) with a statement that such copy is a complete and accurate copy of the originally submitted documents. If applicant provides such a copy of the above-identified papers and statement within **THREE MONTHS** of the mail date of this Office action, the Office will add the original mailroom date and use the copy provided by applicant as the permanent Office record of the above-identified papers in place of the copy made by the Office. Otherwise, the Office's copy will be used as the permanent Office record of the above-identified papers (*i.e.*, the Office will use the copy of the above-identified papers made by the Office for examination and all other purposes). This three-month period is not extendable.